

AMENDED IN SENATE MAY 20, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 3000

Introduced by Assembly Member Wolk

February 22, 2008

An act to amend Sections 4780, 4782, 4783, 4784, and 4785 of, ~~and~~ to amend the heading of Part 4 (commencing with Section 4780) of Division 4.7 of, ~~and to add Sections 4781.2 and 4781.4 to,~~ the Probate Code, relating to health care decisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3000, as amended, Wolk. Health care decisions: ~~life-sustaining~~ *life-sustaining* treatment.

Existing law defines a “request to forgo resuscitative measures” as a written document, signed by an individual, or a legally recognized surrogate health care decisionmaker, and a physician, that directs a health care provider to forgo resuscitative measures for the individual. Existing law provides that a health care provider who honors a request to forgo resuscitative measures is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance on the request, provided that he or she meets certain requirements.

This bill would redefine a request to forgo resuscitative measures as a “request regarding resuscitative measures,” which would be a written document, signed by an individual, or a legally recognized ~~surrogate~~ health care decisionmaker, and a physician, that ~~addresses the individual’s preferences regarding life-sustaining treatment~~ *directs a health care provider regarding resuscitative measures*. The bill would include within this definition a Physician ~~Order~~ *Orders* for Life

Sustaining Treatment form, *as specified*. The bill would require a health care provider ~~treating an individual with a Physician Order for Life Sustaining Treatment, as specified, to follow its orders. The bill would require the health care provider to honor the order even if a physician who executed the order does not have admitting privileges at a hospital or health care facility where the patient is being treated to treat an individual in accordance with a Physician Orders for Life Sustaining Treatment, except as specified, and would permit a physician to conduct an evaluation of the individual and issue a new order consistent with the most current information available about the individual's health status and goals of care. The bill would provide that if the orders in a patient's request regarding resuscitative measures directly conflict with the patient's individual health care instruction, the most recent order or instruction is effective.~~ The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Part 4 (commencing with Section
2 4780) of Division 4.7 of the Probate Code is amended to read:

3
4 PART 4. REQUEST REGARDING RESUSCITATIVE
5 MEASURES
6

7 SEC. 2. Section 4780 of the Probate Code is amended to read:
8 4780. (a) As used in this part:

9 (1) "Request regarding resuscitative measures" means a written
10 document, signed by (A) an individual, or a legally recognized
11 ~~surrogate~~ health care decisionmaker, and (B) a physician, that
12 ~~addresses the individual's preferences regarding life-sustaining~~
13 ~~treatment.~~ *directs a health care provider regarding resuscitative*
14 *measures.*

15 (2) "Request regarding resuscitative measures" includes *the*
16 *following:*

17 (A) a prehospital "do not resuscitate" form as developed by the
18 Emergency Medical Services Authority, ~~a Physician Order for~~
19 ~~Life Sustaining Treatment form~~, or other substantially similar
20 form.

1 (B) a Physician Orders for Life Sustaining Treatment form, as
2 approved by the Emergency Medical Services Authority. A request
3 regarding resuscitative measures is not an advance health care
4 directive.

5 (3) “Physician Orders for Life Sustaining Treatment” means
6 a request regarding resuscitative measures that directs a health
7 care provider regarding life-sustaining measures.

8 (b) A request regarding resuscitative measures may also be
9 evidenced by a medallion engraved with the words “do not
10 resuscitate” or the letters “DNR,” a patient identification number,
11 and a 24-hour toll-free telephone number, issued by a person
12 pursuant to an agreement with the Emergency Medical Services
13 Authority.

14 SEC. 3. Section 4781.2 is added to the Probate Code, to read:

15 4781.2. (a) A health care provider shall treat an individual in
16 accordance with a Physician Orders for Life Sustaining Treatment.
17 A physician may conduct an evaluation of the individual and issue
18 a new order consistent with the most current information available
19 about the individual’s health status and goals of care.

20 (b) Subdivision (a) does not apply if the order requires medically
21 ineffective health care or health care contrary to generally
22 accepted health care standards applicable to the health care
23 provider or institution.

24 SEC. 4. Section 4781.4 is added to the Probate Code, to read:

25 4781.4. If the orders in a patient’s request regarding
26 resuscitative measures directly conflict with the patient’s individual
27 health care instruction, then, to the extent of the conflict, the most
28 recent order or instruction is effective.

29 ~~SEC. 3.~~

30 SEC. 5. Section 4782 of the Probate Code is amended to read:

31 4782. (a) A health care provider who honors a request
32 regarding resuscitative measures is not subject to criminal
33 prosecution, civil liability, discipline for unprofessional conduct,
34 administrative sanction, or any other sanction, as a result of his or
35 her reliance on the request, if the health care provider (1) (a)
36 believes in good faith that the action or decision is consistent with
37 this part, and (2) (b) has no knowledge that the action or decision
38 would be inconsistent with a health care decision that the individual
39 signing the request would have made on his or her own behalf
40 under like circumstances.

1 ~~(b) Any health care provider treating an individual with a~~
2 ~~Physician Order for Life Sustaining Treatment shall follow its~~
3 ~~orders if the conditions of subdivision (a) have been met. The~~
4 ~~health care provider shall honor the order even if a physician who~~
5 ~~executed the order does not have admitting privileges at a hospital~~
6 ~~or health care facility where the patient is being treated.~~

7 ~~SEC. 4.~~

8 ~~SEC. 6.~~ Section 4783 of the Probate Code is amended to read:

9 4783. (a) Forms for requests regarding resuscitative measures
10 printed after January 1, 1995, shall contain the following:

11 “By signing this form, the surrogate acknowledges that this request
12 regarding resuscitative measures is consistent with the known
13 desires of, and with the best interest of, the individual who is the
14 subject of the form.”

15 (b) A substantially similar printed form is valid and enforceable
16 if all of the following conditions are met:

17 (1) The form is signed by the individual, or the individual’s
18 legally recognized ~~surrogate~~ health care decisionmaker, and a
19 physician.

20 (2) The form directs health care providers regarding resuscitative
21 measures.

22 (3) The form contains all other information required by this
23 section.

24 ~~SEC. 5.~~

25 ~~SEC. 7.~~ Section 4784 of the Probate Code is amended to read:

26 4784. In the absence of knowledge to the contrary, a health
27 care provider may presume that a request regarding resuscitative
28 measures is valid and unrevoked.

29 ~~SEC. 6.~~

30 ~~SEC. 8.~~ Section 4785 of the Probate Code is amended to read:

31 4785. This part applies regardless of whether the individual
32 executing a request regarding resuscitative measures is within or
33 outside a hospital or other health care institution.